ENROLLED HOUSE
BILL NO. 1806 By: Voskuhl of the House

and

Morgan of the Senate

An Act relating to insurance; amending 36 O.S. 1991, Sections 1221, as amended by Section 1, Chapter 342, O.S.L. 1994 and as renumbered by Section 20, Chapter 342, O.S.L. 1994, 1227, as last amended by Section 3, Chapter 342, O.S.L. 1994 and as renumbered by Section 20, Chapter 342, O.S.L. 1994, and 1254, as last amended by Section 5, Chapter 342, O.S.L. 1994 and as renumbered by Section 20, Chapter 342, O.S.L. 1994 (36 O.S. Supp. 1996, Sections 1250.1, 1250.3 and 1250.5), which relate to the Unfair Claims Settlement Practices Act; clarifying statutory cites and language; adding certain profession to definition of physician used for certain purposes; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1221, as amended by Section 1, Chapter 342, O.S.L. 1994 and as renumbered by Section 20, Chapter 342, O.S.L. 1994 (36 O.S. Supp. 1996, Section 1250.1), is amended to read as follows:

Section 1250.1 Sections ~~1~~ 1250.1 through ~~16~~ 1250.16 of this ~~act~~ title shall constitute a part of the Oklahoma Insurance Code and shall be known and may be cited as the "Unfair Claims Settlement Practices Act".

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1227, as last amended by Section 3, Chapter 342, O.S.L. 1994 and as renumbered by Section 20, Chapter 342, O.S.L. 1994 (36 O.S. Supp. 1996, Section 1250.3), is amended to read as follows:

Section 1250.3 A. The provisions of the Unfair Claims Settlement Practices Act shall apply to all claims arising under an insurance policy or insurance contract issued by any insurer.

B. It is an unfair claim settlement practice for any insurer to commit any act set out in Section ~~5~~ 1250.5 of this ~~act~~ title, or to commit a violation of any other provision of the Unfair Claims Settlement Practices Act, if:

1. It is committed flagrantly and in conscious disregard of this act or any rules promulgated hereunder; or

2. It has been committed with such frequency as to indicate a general business practice to engage in that type of conduct.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1254, as last amended by Section 5, Chapter 342, O.S.L. 1994 and as renumbered by Section 20, Chapter 342, O.S.L. 1994 (36 O.S. Supp. 1996, Section 1250.5), is amended to read as follows:

Section 1250.5 Any of the following acts by an insurer, if committed in violation of Section ~~3~~ 1250.3 of this ~~act~~ title, constitutes an unfair claim settlement practice:

1. Failing to fully disclose to first party claimants, benefits, coverages, or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim;

2. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;

3. Failing to adopt and implement reasonable standards for prompt investigations of claims arising under its insurance policies or insurance contracts;

4. Not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear;

5. Denying a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so;

6. Except where there is a time limit specified in the policy, making statements, written or otherwise, which require a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if such a time limit is not complied with unless the failure to comply with such time limit prejudices an insurer's rights;

7. Requesting a claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment;

8. Issuing checks or drafts in partial settlement of a loss or claim under a specified coverage which contain language which releases an insurer or its insured from its total liability;

9. Denying payment to a claimant on the grounds that services, procedures or supplies provided by a treating physician or a hospital were not medically necessary unless the health insurer or administrator, as defined in Section 1442 of this title, first obtains an opinion from any provider of health care licensed by law and preceded by a medical examination or claim review, to the effect that the services, procedures or supplies for which payment is being denied were not medically necessary. Upon written request of a claimant, treating physician or hospital, such opinion shall be set forth in a written report, prepared and signed by the reviewing physician. The report shall detail which specific services, procedures or supplies were not medically necessary, in the opinion of the reviewing physician, and an explanation of that conclusion. A copy of each report of a reviewing physician shall be mailed by the health insurer, or administrator, postage prepaid, to the claimant, treating physician or hospital requesting same within fifteen (15) days after receipt of such written request. As used in this ~~subsection~~ paragraph, "physician" means a person holding a valid license to practice medicine and surgery, osteopathy, podiatry, dentistry, chiropractic or optometry, pursuant to the state licensing provisions of Title 59 of the Oklahoma Statutes;

10. Compensating a reviewing physician on the basis of a percentage of the amount by which a claim is reduced for payment;

11. Compelling, without just cause, policyholders to institute suits to recover amounts due under its insurance policies or insurance contracts by offering substantially less than the amounts ultimately recovered in suits brought by them, when such policyholders have made claims for amounts reasonably similar to the amounts ultimately recovered; or

12. Failing to maintain a complete record of all complaints which it has received during the preceding three (3) years or since the date of its last examination by the Commissioner, whichever time

is shorter. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For the purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 24th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the 18th day of March, 1997.

President of the Senate